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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,453	02/12/2004	Lynn Noble	034017R015	3598
441	7590	10/24/2006	EXAMINER	
SMITH, GAMBRELL & RUSSELL 1850 M STREET, N.W., SUITE 800 WASHINGTON, DC 20036			WEEKS, GLORIA R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 10/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Response to Supplemental Notice of Allowability Request

1. Applicant has requested rejoining withdrawn claim 30 the allowed claims 1-3, 5, 6, 8-13, 15, 16, 18-22, 24-29 and 31-35, as the preamble of claim 30 includes the phrase “using the end sealer shifting assembly of claim 1”. Examiner maintains assessment that claim 30 does not meet the proper limitation requirements to warrant a rejoinder with the allowable claims since claim 30 does not require all the limitations of allowed claim 1¹, which is highlighted in Applicant’s request. The recitation of using the end sealer shifting assembly of claim 1 has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. The process steps of claim 30 do not incorporate the allowable structure (push rod end received by compression jaw wherein the compression jaw is adjustable relative to the push rod end) into the method claimed.

The section 821.04(b) MPEP quoted by Applicant is drawn to a process and product rejoinder whereas Applicant’s invention is drawn to a process and apparatus.

2. With respect to the reasons behind the claim changes, Examiner agrees that some of the changes were made with respect to matters of formality, to maintain claim terminology consistency. However, the amendment to claim 13 line 3 was made to overcome a 35 USC 112, second paragraph rejection as line 10 of claim 13 and line 11 of claim 32 recite the phrase “said rod” which has no antecedent basis.

¹ “A withdrawn claim that does not require all the limitation of an allowable claim will not be rejoined.” (MPEP 821.04 [R-3] paragraph 2 line 2.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R. Weeks whose telephone number is (571) 272-4473. The examiner can normally be reached on M-F 8am-4pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

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grw


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PRIMARY EXAMINER

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Examiner
Art Unit 3721